

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN SOCIAL HEALTH ASSOCIATION

Employer

and

Case No. 11-RC-6445

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP
BUILDERS, BLACKSMITHS, FORGERS AND HELPERS, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 1/

All full time and regular part time health communication specialists I and II employees assigned to the national sexually transmitted diseases and AIDS, national immunization information, herpes, human papilloma virus and North Carolina family health resources hotlines of the Employer at its Research Triangle Park, North Carolina facility, including internet and e-mail specialists for the national sexually transmitted diseases and AIDS hotline, data information specialist and lead health communication specialist/trainer for the North Carolina family health resources hotline, administrative assistant, data analyst and research analyst for the national sexually transmitted diseases and AIDS hotline and training specialists for the national sexually transmitted diseases and AIDS and national immunization information hotlines, but excluding conference and communications specialist, information coordinator and staffing coordinator for the national sexually transmitted diseases and AIDS hotline, promotions coordinator/administrative assistant for the national immunization information hotline, office clerical employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees

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engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 11 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election, only after I shall have determined that an adequate showing of interest among the employees in the unit found appropriate has been established.

In order to be timely filed, such list must be received in the Regional Office of the National Labor Relations Board, Region 11, 4035 University Parkway, Suite 200, P. O. Box 11467, Winston-Salem, North Carolina 27116-1467, on or before **June 6, 2001**. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall or by department, etc.).

If you have any questions, please contact the Regional Office.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **June 13, 2001**.

Dated May 30, 2001

at Winston-Salem, North Carolina

/s/Willie L. Clark, Jr.
Regional Director, Region 11

1/ The Employer is a North Carolina corporation with a facility located at Research Triangle Park, North Carolina, where it is engaged, on a non-profit basis, in the business of providing health communications to the public and health providers. During the past 12-month period, the Employer has sold and shipped health communication materials valued in excess of \$50,000 directly to points located outside the State of North Carolina.

Both the Employer and the Petitioner have timely filed briefs which have been carefully considered.

The Petitioner seeks a unit of approximately 134 employees consisting of all full time and regular part time health communication specialists I and II employed by the Employer who are assigned to its national sexually transmitted diseases and AIDS (NSTDA) hotline and its national immunization information (NII) hotline, including internet and e-mail specialists for the NSTDA hotline, but excluding office clerical employees, administrative employees, managerial employees, supervisors as defined by the Act and all other employees. The Employer maintains that the unit the Petitioner seeks is one that it is too narrowly drawn. The proper unit, according to the Employer, would constitute about 164 persons and should include, in addition to the employees the Petitioner seeks to represent, all health communication specialists I and II employed by the Employer at its North Carolina family health resources (NCFHR) hotline, at its human papilloma virus (HPV) hotline, and at its herpes hotline, administrative assistant for the NSTDA hotline, conference and communication specialist for the NSTDA hotline, promotions coordinator/administrative assistant for the NII hotline, information coordinator for the NSTDA hotline, data information specialist for the NCFHR hotline, lead health communications specialist/trainer for the NCFHR hotline, staffing coordinator for the NSTDA hotline, training specialists, and data analyst and research analyst for the NSTDA hotline. There are approximately 160 employees in the unit found appropriate herein.

The Employer is a non-profit organization which has as its purpose the prevention of sexually transmitted diseases and their harmful consequences to individuals, families and communities. As presented in its handbook for employees, the mission of the Employer is: "To inform, educate and lead the fight against sexually transmitted diseases and the threat they pose to life, health and society." In an effort to accomplish this stated mission, the Employer operates five different telephone contact lines, termed "hotlines", through which it provides to the public information and referral services. These five separate hotlines are identified as follows:

1. A national sexually transmitted diseases and AIDS hotline (NSTDA hotline),
2. A national immunization information hotline (NII hotline),
3. A herpes hotline,
4. A human papilloma virus hotline (HPV hotline), and
5. A North Carolina family health resource hotline (NCFHR hotline).

The Employer operates all five hotlines at its Research Triangle Park, North Carolina, facility where they are all organized under the consumer health network services (CHNS) department. This department is headed by the senior director of the community health network services, which, at the time of hearing, was a vacant position. The employees who regularly answer the calls of the public on these five hotlines are classified by the Employer as health communication specialists (HCS) at both levels I and II with HCS II employees being more senior and more experienced.

The central issue concerning the scope of the unit is whether the HCS I and II employees who work on each of the five hotlines should be included in a single unit as the Employer contends, or whether the HCS I and II employees who work on only the NSTDA and the NII hotlines constitute an appropriate unit unto themselves as the Petitioner maintains. The employer argues that to resolve such issues the Board

utilizes its community of interest standards as set forth in case law found in such precedents as Pittsburgh Plate Glass Co. v. NLRB, 313 US 146 (1941). Conversely the Petitioner citing P. Ballentine & Sons, 141 NLRB 1103 (1963) and related cases maintains that a labor organization is not required to seek representation in the most comprehensive grouping of employees unless, “an appropriate unit compatible with that requested does not exist.” The Petitioner notes in its brief that the Board does not mandate that a union petition for the most appropriate unit but rather required that the requested unit be appropriate in the sense that it insures employees “the fullest freedom in exercising the rights guaranteed by the Act.” Morand Bros. Beverage Co., 91 NLRB 409 (1950) Consequently, in an effort to decide among these two competing positions regarding the scope of the unit, one must examine, in the context of the operation of the Employer, the relationship between the health communication specialists I and II the Petitioner seeks to represent and those health communication specialists I and II the Employer contends should also be included in the bargaining unit.

All of the HCS I and II employees work in the same building, and but for the eight HCS employees who work on the NCFHR hotline on the third floor, the work location for the four other hotlines is on the second floor of the building. Each hotline has been established to communicate information on a particular disease, medical condition or health problem. The herpes and HPV hotlines are jointly staffed by eight HCS employees at a single work location. The one HCS employee who answers the HPV hotline also receives calls on the herpes hotline. Consequently, while the employees of each hotline physically work in the relatively close proximity of a single building, and for the most part a single floor of that building, the HCS I and II employees for each hotline have their own segregated work areas. However, these distinct work areas for each hotline, which in some cases are adjacent to one another, appear similarly configured. To this extent, the HCS I and II employees for all the hotlines, sit in individualized booths and, while performing their work, use the same kind of telephone equipment and operate the same type of computers. Each of the hotlines, except for the herpes and HPV hotlines which are combined, has its own supervisory and management hierarchy; but, as noted earlier, the Employer has organized the services and operations for all the hotlines into the single department called consumer health network services (CHNS) and as such, all hotlines are ultimately managed by one person titled senior director of CHNS.

To insure the HCS I and II employees for each hotline correctly handle their contacts with the public and dispense accurate and current information and referrals, all the HCS I and II employees are given extensive and regular training. Indeed, the Employer has rooms specifically designated for training located on the second floor of its facility. The training they receive from the Employer is of two types, initial training, which is provided before the new HCS employees actually begin taking phone calls, and in-service training, which is training received after they have already begun responding to phone calls from the public. As would be expected, the initial training for each hotline primarily involves educating the HCS employees about the specific topics addressed by the hotline to which they are assigned. The major similarities during the initial training for the five hotlines concerns the actual operation of the common telephone and computer equipment they all use and the similar amount of initial training time involved. HCS employees for the NSTDA hotline must complete 45 hours of initial training concerning sexually transmitted diseases and AIDS during a period of about three and a half weeks. The initial training for HCS employees on the NII hotline is 40 hours, and 40 hours is the minimum initial training the Employer gives to HCS employees on both the herpes and the HPV hotlines. The HCS employees assigned to the NCFHR hotline are expected to receive initial training which takes approximately three weeks. The NCFHR hotline only serves the residents of North Carolina, but the other four hotlines provide information and referrals to all fifty states. Regarding in-service training, the goal of the Employer is the same for each of the five hotlines and that is to provide ongoing training to enable the HCS I and II employees to better do their jobs. Normally, the in-service training for each hotline is prepared to specifically relate to the matters which an individual hotline is concerned. Thus, any joint in-

service training between HCS employees of different hotlines is almost nonexistent. Never the less, the record contains testimony of HCS employees assigned to the NCFHR hotline who recently voluntarily participated in in-service training designated for another hotline because the topic was deemed to be relevant.

The record reflects that the skills required of the HCS I and II employees for all five hotlines are essentially the same. For example, regardless of the hotline involved, they all require the same level of core competencies in listening skills, communication skills, the ability to quickly access large amounts of data, simulation skills, and the ability to handle a wide variety of callers in a wide variety of circumstances. The HCS I and II employees, while concerned with the unique subject material for their respective hotlines utilize these common skills because they all are confronted with the same basic tasks of providing accurate and current information and referrals to callers, correctly dealing with emotional and anxious callers and handling improper or chronic callers.

The Employer maintains a single set of work rules and policies for all its employees. These work rules and policies are found in two documents created by the Employer, the employee handbook and the policy manual, which are provided to all employees. However, compared to the other four hotlines, the NSTDA hotline, which is by far the largest hotline with about 122 HCS employees, has developed its own unique employee attendance policy. While the Employer may currently be investigating the possibility of making all employee attendance policies more efficient and consistent, no such changes have yet been implemented. Furthermore, primarily due to the specialized subject matter addressed by each hotline, the hotlines maintain their own individualized statistics regarding the phone calls they receive. Some of these individualized hotline statistics may be used by supervision and management of a particular hotline to, in part, evaluate the HCS I and II employees working on that hotline. There is also a variance in the manner that worktime is kept for HCS I and II employees. The HCS working with the NSTDA and NII hotlines punch a time clock, but the HCS employees on the remaining three hotlines simply complete time sheets. Based mainly upon the needs of the public, the Employer has separately scheduled the operation of each of the five hotlines. The NSTDA hotline is open 24 hours a day, seven days a week. The NII hotline, with ten HCS employees, receives calls from 8:00 a.m. to 11:00 p.m. Monday through Friday. Both the herpes hotline, with seven HCS employees, and the NCFHR hotlines, with eight HCS employees, operate from 9:00 a.m. to 7:00 p.m. Monday through Friday. The HPV hotline, with one HCS employee, is also open Monday through Friday but only between 2:00 p.m. and 7:00 p.m.

All employees of the Employer receive the same fringe benefits. The HCS I and II employees of each of the five hotlines are paid an hourly basis, and while there is slight variation in the actual pay range paid HCS employees for each hotline, there can be no dispute that the overall pay range for each of the five hotlines is similar to that of the other four.

With the exception of two HCS employees assigned to the NSTDA hotline who work with the teletype (TTY) to communicate with hearing impaired persons and who are also trained to answer teletype calls on the NII hotline, there is virtually no daily work interchange among the HCS employees on any of the five hotlines. Moreover, since this cross training for TTY operators has been in existence, the HCS employees on the NSTDA hotline have only answered one NII hotline call. Never the less, the record does show that in the past years a few HCS employees have transferred from one hotline to another. When there is an opening for an HCS position on any of the hotlines, the testimony is that those positions are first posted for bid by any employee of the Employer. Job vacancies are only advertised to the public if the open position is not filled internally. If the Employer happens to have HCS openings on only just one hotline it will place hotline specific advertisements. Otherwise, it will simply place general public advertisements for HCS employees; and then the various hotlines share the applications and resumes received by the Employer. Nearly all HCS II positions are filled by HCS I employees being promoted.

The central argument of the Petitioner is that because the NSTDA and NII hotlines perform work pursuant to a contract between the Employer and the Communicable Disease Center (CDC), the wages and fringe benefits of the employees of these two hotlines are, unlike the other three hotlines, controlled by the language found in the Service Contract Act of the U.S. Government. Therefore these two hotlines, according to the Petitioner, would constitute an appropriate unit due to their common funding and the dictates applied by the Service Contract Act. However, an examination of the Service Contract Act to which the Petitioner attempts to anchor its logic reflects that this act speaks only to minimum standards for employees, and contrary to the reasoning of the Petitioner, the act discusses the possibilities of negotiations for increased employee pay and/or fringe benefits by an employer subject to the act. Consequently, I am not inclined to give much weight to the reading by the Petitioner of the Service Contract Act in relation to the issue of the unit determination of the employees of the Employer.

The record does not support the reasoning that the unit petitioned for by the Petitioner of the HCS I and II employees for just the NSTDA and NII hotlines is a subgroup which automatically should be found appropriate simply because that is what the Petitioner seeks. Though the Petitioner is correct that the Board does not require that the desired unit necessarily be the most appropriate unit, the Board however, examines the facts of each case to insure that the unit found appropriate is one which when severed from a larger unit will still provide the required bargaining stability. Both parties herein rely upon Kalamazoo Paper Box Corporation, 136 NLRB 134(1962) which states:

Because the scope of the unit is basic to and permeates the whole of the collective-bargaining relationship, each unit determination, in order to further effective expression of the statutory purposes, must have a direct relevancy to the circumstances within which collective bargaining is to take place. For, if the unit determination fails to relate to the factual situation with which the parties must deal, efficient and stable collective bargaining is undermined rather than fostered.
(id.137)

Traditionally, the Board has determined that a plant wide unit is one that is presumptively appropriate. Of course, using its case by case analysis described above, the Board has, at times, also found appropriate less than a plant wide unit composed of only certain departments or employee groupings with interests so disparate from those of other employees that they cannot be represented in the same unit. E.H. Koester Bakery, 136 NLRB 1006 1011(1962) In the instant matter, the Petitioner; however, seeks to segregate into a separate bargaining unit just certain HCS I and II employees of the single CHNS department, who, as described above, have a strong community of interest with other HCS I and II employees in that same department. Despite the fact that each of the five hotlines is only concerned with a particular subject matter assigned by the Employer and the fact that there is little contact between the HCS employees of the various hotlines, there still exists a significant commonality between the HCS employees of the five hotlines in both their daily performance requirements and work methods, in addition to their working conditions, rates of pay and fringe benefits. The record evidence does not support a finding that the HCS I and II employees of the NSTDA and NII hotlines are a functionally distinct group with such overriding unique interests to warrant them being removed into a separate bargaining unit that would not include the other HCS I and II employees working on the other three hotlines in the same department of the Employer. Kalamazoo Paper Box Corporation, supra. Therefore, I have determined that the employees the Petitioner seeks to represent do not constitute a proper unit, but rather I find that the appropriate unit should include the HCS I and II employees from all five of the hotlines of the Employer.

Furthermore, other than the CDC contract for funding the NSTDA and NII hotlines which, as discussed above, I have accorded little weight in this total factual pattern, there appears to be no stronger bond

between these two hotlines than exists between either of these two hotlines and any of the remaining three hotlines. Thus, in actuality, the HCS employees of any given hotline have just as much in common and in difference with the HCS employees of any other hotline. In resolving a similar unit determination the Board stated in Airco, Inc., 273 NLRB 348, 349(1984):

While the employees in different classifications thus have little contact, it is just as true that no two employees in the *same* classification have much contact. That factor therefore cannot negate a community of interest sufficient to allow collective representation.

In addition to the disputed HCS employees from the five hotlines, the parties disagree as to the inclusion into the bargaining unit of ten specific job classifications. The Employer would include and the Petitioner would exclude all of these positions. The data information specialist is assigned to the NCFHR hotline. The job description and testimony concerning this position both describe how the incumbent is responsible for updating the referral data, the information database, disseminating data and researching information and programs for inclusion in the NCFHR hotline data base. He is expected to work closely with HCS employees to correct any inadequate information contained in the database. The data information specialists is paid on an hourly basis at a rate above the HCS employees assigned to the NCFHR hotline but below the pay rate of HCS employees working on other hotlines.

The lead health communication specialist/trainer is a position on the NCFHR hotline, for which the Employer mandates that the person holding the position be bilingual in English and Spanish. The incumbent is responsible for, or to assist with, updating the referral database, the information database, disseminating data and providing training to the NCFHR hotline staff. Besides acting as a trainer for the NCFHR hotline, with its eight HCS employees, the lead health communication specialist/trainer has as part of her duties the answering of calls received by this hotline. The record shows that, due to her bilingual capabilities, she may spend as much as 50 percent of her time answering calls on the NCFHR hotline. Her hourly rate of pay is about four dollars an hour above HCS employees for the NCFHR hotline, but only one-dollar an hour above HCS employees on other hotlines.

The administrative assistant position for the NSTDA hotline is also required to be bilingual in English and Spanish. Testimony adduced during the hearing indicates that the person in this position functions primarily as the point person for all HCS hiring and termination information for the NSTDA hotline. She performs such duties as issuing time cards and arranging absence requests for newly hired HCS employees. Other duties of the administrative assistant include preparing the monthly staffing report, the weekly work schedule for HCS employees on the NSTDA hotline, and processing leave, absence and employee action forms for HCS employees. The Petitioner would exclude the administrative assistant as an office clerical. Though her office, where she spends most of her time, is centered in the administrative office area for the NSTDA hotline and though she does some work that is clerical in nature, the record reflects that she primarily does support work for the NSTDA hotline. Furthermore, by the description of her duties it would appear that she would necessarily have frequent contact with HCS employees. The hourly pay rate for the administrative assistant is at the high end of that received by HCS employees on the NSTDA hotline.

The conference and communications specialist for the NSTDA hotline is responsible for conference planning, hotline related travel and exhibiting and completing written communications with the CDC. These duties require the conference and communications specialist to work closely with both the director and promotional activities manager of the NSTDA hotline. The person in this position has an office among the administrative offices of the NSTDA hotline, and he spends nearly all of his work time in that office. He is paid on a salary basis which when broken down to an hourly rate is about a dollar above the

hourly rate paid some HCS employees on the NSTDA hotline. The conference and communications specialist, like all supervisors on the NSTDA hotline, must receive calls on the hotline for a minimum of 4 hours each month. These calls are not subject to scrutiny by supervision as are those received by HCS employees. Finally, while not discussed in the record, the job description for this position lists among its many major duties and responsibilities the requirement to, “supervise administrative and/or HCS staff...”.

The promotions coordinator/administrative assistant for the NII hotline has duties for the NII hotline similar to those of the conference and communications specialists for the NSTDA hotline. Fifty percent of his time, according to his job description, is to provide administrative support to the director and other supervisory staff of the NII hotline and manage projects necessary to ensure smooth and effective daily operation of the NII hotline. The person in this position reports directly to the director of the hotline and is paid at a grade level-3 above the grade level-2 paid to HCS employees. There is evidence that the incumbent is trained to receive calls on the NII hotline, but the record does not indicate that he ever does work on the hotline. The job description for this position includes among its many duties the preparation of external and internal correspondence for the director and other supervisory staff as needed, the attendance and contribution to weekly meetings with the director and staff and the ability to maintain confidentiality of work related personnel information.

The information coordinator for the NSTDA hotline serves as the primary STD, HIV and AIDS information consultant for this hotline. She works under the direct supervision of the operations manager, does not punch a time clock, and is paid on a salary basis at an hourly rate well above that of any HCS employee. The information coordinator has an office in the NSTDA administrative area. Her duties include researching new information and updating information manuals for use by the HCS employees. The job description for the information coordinator requires a, “Bachelor’s degree with a minimum of two years experience in STD, HIV/AIDS education and prevention and previous supervisory experience”. HCS employees need only a high school diploma and two years of college education or equivalent work experience to be hired by the Employer.

The staffing coordinator for the NSTDA hotline is responsible for the coordination of all activities associated with the recruitment of HCS I staff for the English service of this hotline and the management of all call data related databases. His rate of pay is approximately two dollars per hour greater than the highest paid HCS employee on the NSTDA hotline. To qualify for the position, the Employer prefers the person possess a bachelor degree or a combination of two years of college course work and two years of related work experience. The office of the staffing coordinator is in the NSTDA administrative area. He does not punch a time clock but does complete a time sheet. His duties require that he handle new schedules and schedule changes for HCS employees. He does answer calls from the public on the NSTDA hotline for four hours a month as do supervisors, but his calls are not monitored or considered in his evaluation. He reports directly to a manager. His duties concerning HCS applicants involve only their scheduling for interviews and the organizing of resumes. However the record indicates that he has significantly more authority in arranging the work schedule for the HCS employees on the NSTDA hotline. In fact one HCS employee testified, without contradiction, that his request for a work schedule change was orally not approved by the staffing coordinator while another such request was approved by the signature of the staffing coordinator.

The Employer employs three training specialists whose primary duty is to provide both initial and in-service training to the HCS employees of the NSTDA and NII hotlines. These trainers have their own offices and are paid on a salary basis at grade 5 which places the hourly rate of one of them about three dollars per hour more than the highest paid HCS. Like supervisors over the HCS employees, the trainers are expected to work on the hotline a minimum of four hours per month. When training HCS employees, the training specialists do administer tests; but it does not appear that the results of these training tests are

used by supervisors to evaluate HCS employees. However the record does reflect that a trainer may comment on the performance of an employee to a supervisor. Then after independent investigation by the supervisor, the employee may receive counseling or some disciplinary action. There is no evidence that the training specialists exercise any form of supervisory indicia. Clearly through their in-service training the training specialists maintain regular, though not necessarily frequent, contact with the entire compliment of HCS employees on the two hotlines they serve.

The data analyst and the research analyst for the NSTDA hotline are the last two positions the Employer seeks to include. The data analyst is responsible for obtaining, maintaining, coordinating and analyzing data for use by the Employer and the CDC. The research analyst provides support in research and evaluation of the NSTDA hotline. This would include assistance in hotline data collection and storage. Both positions list a bachelor degree as being a preferred prerequisite. The data analyst is paid on a salary basis at a grade level 5 and the research analyst is salaried at a grade level 3. This makes their hourly rate in the range of one to two dollars per hour greater than the highest paid HCS employee. It appears from the limited evidence in the record relating to these two positions that they do have somewhat regular contact with HCS employees in both gathering data and maintaining computer-based resources for the HCS employees assigned to the NSTDA hotline.

Based upon the evidence delineated above, I shall include in the bargaining unit found appropriate herein the following employee positions: NCFHR hotline data information specialist and lead health communication specialist/trainer, NSTDA hotline administrative assistant, NSTDA and NII hotline training specialists and NSTDA hotline data analyst and research analyst. I find that the employees in these positions share a sufficient community of interests with the HCS employees including common benefits, work rules, and, for the most part, similar ranges of pay to warrant their inclusion in the bargaining unit. These disputed employees also perform daily tasks which lend support to and are functionally integrated with the work of the HCS employees in meeting the stated mission of the Employer. Though I recognize that the NSTDA hotline administrative assistant does perform many tasks of a clerical nature, I have included this position in the bargaining unit based upon the rationale of the Board found in such cases as, The F. & M. Schaefer Brewing Co., 198 NLRB 323-326 (1972); Swift & Company, 119 NLRB 1556, 1558 (1958); and Gordonville Industries, Inc., 252 NLRB 563, 590 (1980)

I further find that the positions of NSTDA hotline conference and communications specialist, information coordinator and staffing coordinator as well as NII hotline promotions coordinator/administrative assistant should not be included in the unit determined to be appropriate. As the Petitioner contends, I conclude that the evidence demonstrates that these positions are managerial in nature and as such, they are properly precluded from the bargaining unit.

Inasmuch as the unit found herein is larger than that sought by the Petitioner, I shall allow the Petitioner 14 days in which to submit the additional showing of interest.

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